



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**WAGGONER CARR  
ATTORNEY GENERAL**

**February 8, 1966**

Honorable Chas. H. Bolton  
County Attorney  
Bosque County  
Meridian, Texas

Opinion No. C-600

Re: The authority of a Tax  
Collector to summarily  
levy upon, seize, post  
and sell personal prop-  
erty for delinquent  
taxes under the pro-  
visions of Articles 7272  
and 7273, V.C.S.

Dear Mr. Bolton:

By letter of January 21, 1966, you request an opinion  
of this office on the following question, to-wit:

"Can a County Tax Collector, under Articles  
7272 and 7273, V.A.C.S. summarily levy  
upon, seize, post and sell personal pro-  
perty by virtue of the Collectors Tax Roll,  
and sell it for delinquent taxes against  
it; and, what is the procedure?"

Article 8, Section 15, of the Constitution of Texas,  
confers upon the Legislature the power to provide for the  
collection of delinquent taxes. This section is as follows:

"The annual assessments made upon landed  
property shall be a special lien thereon;  
and all property, both real and personal  
belonging to any delinquent taxpayer shall  
be liable to seizure and sale for the  
payment of all the taxes and penalties due  
by such delinquent; and such property may  
be sold for the payment of the taxes and  
penalties due by such delinquent, under  
such regulations as the Legislature may  
provide." (Emphasis added)

Pursuant to the Constitutional mandate, the Legislature provided methods for the collection of delinquent taxes. That portion of Article 7272, Vernon's Civil Statutes, pertinent to your question is as follows:

"All real and personal property held or owned by any person in this State shall be liable for all State and County Taxes due by the owner thereof, including tax on real estate, personal property and poll tax; and the Tax Collector shall levy on any personal or real property to be found in his county to satisfy all delinquent taxes, any law to the contrary notwithstanding." (Emphasis added)

Summary sales of real property under the provisions of the above Article brought about such strong opposition to this procedure that the Legislature in 1929 enacted Chapter 48 of the Acts of the Regular Session of the 41st Legislature, Article 7328a, Vernon's Civil Statutes. Section 1 of this Act provides:

"That all sales of real estate made for the collection of delinquent taxes due thereon shall be made only after the foreclosure of tax lien securing same has been had in a court of competent jurisdiction in accordance with existing laws governing the foreclosure of tax liens in delinquent tax suits."

The Court in Duncan v. Gabler, 147 Tex. 229, 215 S.W.2d 155 (1949), held that the above Act of 1929 was constitutional and that land could not be sold for delinquent taxes except after a foreclosure of the tax lien in a court. Former opinions of this office, namely, Opinions Nos. O-683-A (1939) and V-815 (1949) are to the same effect.

We find no court decision condemning the summary sale of personal property for delinquent taxes, nor any amendments applying to the sale of personal property such as the one covering real property; however, we do find approval of the use of the procedure set forth in Article 7272, *supra*. In the case of Shugart v. Nocona Independent School District, 288 S.W.2d 243 (Tex.Civ.App. 1956), we find the following:

"In view of the legislative act of 1929 only personal property is now subject to summary seizure and sale for taxes.

"Under provisions of Article 7272, V.A.T.S., all property of a taxpayer located within the state is liable for state and county taxes due by its owner. Under said article the tax collector is empowered to levy upon and seize personal property found within his county and to sell the same and apply the proceeds upon the delinquent tax indebtedness of its owner, . . ."

In view of the above, it is our opinion that the Tax Collector may seize and sell personal property for delinquent taxes, without the necessity of a tax suit being filed for the collection of such taxes.

The next part of your request inquires as to what procedure is to be followed in the collection of delinquent taxes by summary sale. A former opinion of this office, being Opinion No. O-5540 (1943), discusses in considerable detail the different methods used in levying on personal property, and we are attaching hereto a copy of the above opinion for your consideration.

The mechanics of a sale of personal property levied on for delinquent taxes is governed by the provisions of Article 7273, Vernon's Civil Statutes, which Article is self-explanatory.

The question of selling personal property by a summary sale for delinquent taxes which is exempt from forced sale under the provisions of Article 3832, Vernon's Civil Statutes, was not covered in your opinion request; however, in view of our holding in this opinion, we are attaching hereto a copy of Attorney General Opinion No. WW-953, dated October 27, 1960, covering this particular question.

#### SUMMARY

"Personal property, not exempt from forced sale, may be levied upon, seized and sold by the Tax Collector

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for delinquent taxes. The sale of  
such property to be made in accordance  
with the provisions of Article 7273,  
V.C.S.

Yours very truly,

WAGGONER CARR  
Attorney General

By



Gordon C. Cass  
Assistant

GCC/fb

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OPINION COMMITTEE

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